

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Structure and Practices of the Video Relay Service)	CG Docket No. 10-51
)	
Telecommunications Relay Services and Speech-)	CG Docket No. 03-123
to-Speech Services for Individuals with Hearing)	
and Speech Disabilities)	
)	

**THE REGISTRY OF INTERPRETERS FOR THE DEAF, INC.
COMMENTS TO FURTHER NOTICE OF PROPOSED RULEMAKING
ON STRUCTURE AND PRACTICES OF THE
VIDEO RELAY SERVICE (VRS) PROGRAM**

Dated: August 19, 2013

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SUMMARY

RID believes that the definition of "functional equivalence" cannot be measured solely by speed of answer and interoperability. Instead, functional equivalence must be measured based on the overall success of the call. It is our goal to support a functionally equivalent VRS by ensuring that interpreters are able to support the equal participation of both parties in VRS calls. In this *FNPRM* and in previous invitations to comment, commenters have been asked to weigh in on the costs of certain changes and regulations. Unfortunately, the Commission has defined "cost" not in terms of functional equivalence but instead in terms of dollars and cents. This narrow definition effectively ignores the impact these changes have on interpreters and thus on the fulfillment of a functionally equivalent video relay service.

A portion of the proposed research and development fund should be earmarked specifically for research related to VRS interpreters. Since the inception of VRS just over a decade ago, there has been a dearth of research about the work interpreters perform. Furthermore, there has been limited research on the mental, physical, and emotional impact working in a VRS call center has on interpreters. Until we more fully understand the work of the interpreter and the physical, mental, and emotional impact it has on the ability to provide interpreting services, interpreters will continue to face the risk injury, burnout, and fatigue which leads to consumers receiving inadequate service.

The Commission should revise the rules to enable hearing individuals to purchase access to ten-digit numbers to make point-to-point calls. Currently, hearing individuals have no way to obtain a ten-digit number for videophone communication. Consumer groups have made clear their desire to connect directly to hearing sign language users through iTRS telephone numbers

and interpreters share the desire for direct communication with their counterparts who communicate through videophones.

The Commission should revise the TRS Advisory Council membership to include VRS interpreter representation. Too often, advisory committees are convened without appropriate or any interpreter representation. The perspective and experiences of video interpreters will strengthen the impact of the new advisory committee and enable the committee to understand fully what is happening in the VRS industry. The Commission should also revise the duties of the advisory council to include providing guidance on functional equivalency, service quality, outreach, and other issues.

RID strongly believes further dialogue is necessary prior to disaggregating emergency calls to 9-1-1. RID recognizes the establishment of separate 9-1-1 relay centers that are co-housed with current 9-1-1 call centers (Media Communications Line Service or MCLS) as one means to achieve functionally equivalent emergency calls to 9-1-1. MCLS offers a solution whereby interpreters can self-determine acceptance of 911 calls, specialize in 911 calling, and provide excellence in interpreting in 911 calling situations. *Working Subgroup Three recommendations on current 9-1-1 and next generation 9-1-1: Media Communication Line Services Used to Ensure Effective Communication with Callers with Disabilities* report was drafted without a RID representative nor an interpreter as a stakeholder. As a result, the report contains inaccuracies and lacks essential information about the work and capabilities of interpreters. Prior to adopting the recommendations of the EAAC, the Commission should first engage interpreters in dialogue about 9-1-1 emergency calls through VRS.

RID understands why consumer groups continue to advocate for a lower Average Speed of Answer (ASA) and recognize that lowering the ASA will more fully realize the goal of

functional equivalency in VRS. However, RID is concerned about the impact a lower ASA will have on interpreters' ability to provide functionally equivalent interpreting services, including the ability to interpret the call effectively, the availability of a qualified pool of interpreters, and the degradation of the consumer experience without the necessary protections established through standards. As a result, interpreters currently working in VRS would bear the brunt of the change by being pressured to process calls to the point of fatigue, stress, and serious injury. RID requests that if the proposed ASA standards are adopted that the Commission also set measurable standards, which may include staffing levels, to prevent degradation in a functionally equivalent VRS.

RID opposes the use of non-competition agreements in VRS interpreter contracts. RID believes that such non-competes, which are typically used to protect trade secrets, are unreasonable and undermine functional equivalence by limiting the pool of qualified interpreters available to work in the VRS industry. There are a finite number of interpreters qualified to work as VRS interpreters so any restriction on when and where these individuals work creates an artificial decrease in the supply of VRS interpreters. The Commission should reject non-competition agreements in VRS interpreter contracts so that functional equivalence is achieved.

Finally, RID continues to receive feedback from qualified interpreters who are willing to work as video interpreters from personal offices. Reasons range from limited work opportunities in rural areas to disabilities preventing the interpreter from travelling to a call center to a dearth of public transportation options. Many of these concerns are exacerbated by the need to travel during overnight hours. RID supports an interpreter's ability to work from personal offices to provide video interpreting; however, guidelines and safeguards must be put in place to protect the health and safety of the interpreter, the experience of the consumer, and the integrity of VRS.

RID looks forward to working with the Commission to support a functionally equivalent VRS. When adopting regulations, the Commission must understand that the telecommunications expectations previously set for TTY operators (CAs) cannot continue as a one-size-fits-all for the VRS industry. RID and the Commission must partner to develop a model in providing relay service via a sign language interpreter to ensure that a functionally equivalent VRS is achieved.

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**THE REGISTRY OF INTERPRETERS FOR THE DEAF, INC.
COMMENTS TO FURTHER NOTICE OF PROPOSED RULEMAKING
ON STRUCTURE AND PRACTICES OF THE
VIDEO RELAY SERVICE (VRS) PROGRAM**

The Registry of Interpreters for the Deaf, Inc. (RID) respectfully submit these comments in response to the Federal Communications Commission’s (“Commission”) Further Notice of Proposed Rulemaking (“*FNPRM*”) in the above-referenced proceedings.¹ In these Comments, RID identifies certain gaps that must be addressed by the VRS Program and then responds to the Commission’s specific questions in the *FNPRM*.²

I. A FUNCTIONALLY EQUIVALENT VRS SERVICE DEPENDS ON HIGHLY SKILLED INTERPRETERS

RID, a national membership organization, plays a leading role in advocating for excellence in the delivery of interpretation and transliteration services among diverse users of

¹ *In the Matter of Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket Nos. 10-51 and 03-123, FCC 13-82 (rel. June 10, 2013) (“*FNPRM*”).

² RID has not provided comments in response to all the questions in the *FNPRM* but may provide reply comments to those that are not addressed herein.

signed and spoken languages. In collaboration with the deaf community, RID supports our members and encourages the growth of the profession. Our Video Interpreter Member Section (VIMS) actively involves its over 1,200 members working in video interpreting to provide support and expertise related to the video interpreting field. RID strongly believes that our mission, excellence in interpreting, makes a functionally equivalent VRS achievable by increasing the pool of qualified interpreters available to work in the field through the establishment of a national standard for qualified sign language interpreters and transliterators, ongoing professional development, and adherence to the NAD-RID code of professional conduct.

RID believes that the definition of "functional equivalence" cannot be measured solely by speed of answer and interoperability. Instead, functional equivalence must be measured based on the overall success of the call. In their policy statement on functional equivalence, Consumer Groups aptly stated, "Persons receiving or making relay calls are able to participate equally in the entire conversation with the other party or parties and they experience the same activity, emotional context, purpose, operation, work, service, or role (function) within the call as if the call is between individuals who are not using relay services on any end of the call."³ We could not agree more. In fact, it is RID's vision that interpreted interactions between and among individuals who use signed and spoken languages are as rich as direct communication. It is our goal to support a functionally equivalent VRS by ensuring that interpreters are able to support the equal participation of both parties in VRS calls.

³ *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Notice of Ex Parte Meeting at 1 (Apr. 12, 2011).

In this *FNPRM* and in previous invitations to comment, commenters have been asked to weigh in on the costs of certain changes and regulations. Unfortunately, the Commission has defined “cost” not in terms of functional equivalence but instead in terms of dollars and cents. This narrow definition effectively ignores the impact these changes have on interpreters and thus on the fulfillment of a functionally equivalent video relay service.

Certainly the degradation of interpreter quality and the unavailability of qualified interpreters are costs. Yet the expertise and experiences of interpreters, who the Commission refers to as Communication Assistants or CAs, are routinely ignored despite providing an integral component of the video relay service. It is inappropriate to classify interpreters as CAs and we appreciate the Commission’s attempts to refer to interpreters appropriately, albeit sporadically, in the current open docket. It is worth emphasizing that the term “Communication Assistant” is antiquated and inaccurate. “Interpreting is a complex process that requires a high degree of linguistic, cognitive and technical skills in both English and American Sign Language (ASL). Sign language interpreting, like spoken language interpreting, involves more than simply replacing a word of spoken English with a signed representation of that English word.”⁴ While the Commission’s definition of a CA⁵ could apply to interpreters, the link is tenuous and fails to recognize the specialized skill video interpreters bring to VRS.

⁴Registry of Interpreters for the Deaf (RID). *Professional Sign Language Interpreting, Standard Practice Paper*. available at [http://rid.org/UserFiles/File/pdfs/Standard_Practice_Papers/Drafts_June_2006/Professional_Sign_Language_Interpreter_SPP\(1\).pdf](http://rid.org/UserFiles/File/pdfs/Standard_Practice_Papers/Drafts_June_2006/Professional_Sign_Language_Interpreter_SPP(1).pdf)

⁵ “A person who transliterates or interprets conversation between two or more end users of TRS.” 47 C.F.R. § 64.601(a)(8).

From speed of answer to assessing whether the person placing the call is a sign language user, interpreters are at the front lines of providing a functionally equivalent VRS. While in theory the interpreter is a transparent conduit, the Commission must recognize interpreting as the core service provided to VRS consumers and be aware of the impact its regulations have on an interpreter's ability to provide functionally equivalent service. Until interpreting is recognized as a core service of VRS and interpreter perspectives are included in the decision-making process, the Commission will continue to struggle to provide a functionally equivalent video relay service.

II. A PORTION OF THE RESEARCH AND DEVELOPMENT FUND SHOULD BE EARMARKED SPECIFICALLY FOR RESEARCH RELATED VRS INTERPRETERS

RID applauds the Commission for their commitment to supporting research related to VRS. We recognize the importance of research and development around the technical aspects of VRS, however, we urge the Commission to earmark a portion of the research funds to support research directly related to interpreters in VRS. Since the inception of VRS just over a decade ago, there has been a dearth of research about the work interpreters perform. Furthermore, there has been limited research on the mental, physical, and emotional impact working in a VRS call center has on interpreters. Currently, the Trauma, Mental Health and Recovery Lab at Northern Illinois University, comprised of Dr. Michelle Lilly and a team of graduate and undergraduate students, are conducting research to examine the impact of handling emergency calls that involve live video as the field transitions to NG 9-1-1. The study is currently enrolling a sample of video interpreters who have handled an emergency call while working in video relay services. This research is a tremendous start to examining the work of VRS interpreters, but it is not enough. RID strongly believes that research is needed to address topics such as stress and -out, vicarious trauma/compassion fatigue, repetitive motion injury, and minimum qualification standards. Until

we more fully understand the work of the interpreter and the physical, mental, and emotional impact it has on the ability to provide interpreting services, interpreters will continue to face the risk injury, burnout, and fatigue which leads to consumers receiving inadequate service. RID stands ready to partner with the Commission to help guide this important research.

III. REVISE RULES TO ENABLE HEARING INDIVIDUALS TO PURCHASE ACCESS TO TEN-DIGIT NUMBERS TO MAKE POINT-TO-POINT CALLS

RID supports the Consumer Groups' request⁶ that iTRS ten digit numbers be made available to hearing people who use sign language and strongly urges the Commission to revise the rules to allow hearing individuals access to ten-digit numbers for point-to-point calls. Currently, hearing individuals have no way to obtain a ten-digit number for videophone communication. Consumer groups have made clear their desire to connect directly to hearing sign language users through iTRS telephone numbers⁷ and interpreters share the desire for direct communication with their counterparts who communicate through videophones. Most interpreters have strong ties to the deaf community – interpreters may have deaf parents/families, deaf spouses/partners, deaf colleagues and deaf friends. A functionally equivalent relay service does not force a deaf consumer to use an interpreter to connect with an ASL fluent family member or friend but instead would allow the deaf consumer to connect directly with a person, regardless of hearing status, through the use of a ten-digit number.

⁶ *Petition for Partial Reconsideration of Telecommunications for the Deaf and Hard of Hearing Inc. by Association of Late Deafened Adults, Inc.; National Association of the Deaf; Deaf and Hard of Hearing Consumer Advocacy Network; Hearing Loss Association of America; and American Association of the Deaf-Blind*, Docket Nos. 03-123 and 05-196 (January 29, 2009), available at <http://apps.fcc.gov/ecfs/document/view?id=6520194419>.

⁷ *Id* at 3.

IV. REVISE TRS ADVISORY COUNCIL MEMBERSHIP AND DUTIES

A. The TRS Advisory Council Should Have VRS Interpreter Representation

RID strongly urges meaningful representation of interpreters on the new advisory council. Interpreters are responsible for meeting many of the regulations, from speed of answer to assessing whether the person placing the call is a sign language user. Too often, advisory committees are convened without appropriate or any interpreter representation. A consumer's ability to effectively utilize VRS depends on the knowledge, skills, and abilities of the interpreters, yet the job of an interpreter is routinely deemphasized. The perspective and experiences of video interpreters will strengthen the impact of the new advisory committee and enable the committee to understand fully what is happening in the VRS industry.

B. The TRS Advisory Council Should Advise on Functional Equivalency, Service Quality, Outreach, and Other Issues

RID strongly believes that the new advisory committee should focus on efficiency, which should be defined broadly enough to examine the role of and limitations on the interpreter. Specifically, how are standards like "speed of answer" impacting the interpreters' health and safety and thus impeding the consumer's ability to access high quality interpreting services. Furthermore, the new advisory council must carefully monitor user experience as related to the quality of interpreting services provided by interpreters. This is particularly important as the Commission announced in the *FNPRM* that interpreters do not need to be certified to be able to work in VRS. Furthermore, the Commission declined establishing skill-based call routing so that consumer may receive more specialized interpreting services when necessary. RID strongly disagrees with the Commission's rejection of certification and skill-based routing and thus urges the Commission to implement practical and concrete measures to

ensure that interpreters are not being adversely impacted by these regulations and that consumers are able to receive functionally equivalent services.

In the *FNPRM*, the Commission asks for input on the membership of the new advisory committee.⁸ We emphasize that consumers should be have strong representation on the newly formed council but request that a RID representative also be appointed to the council. RID representation will ensure that vital information about functional equivalency is shared and that outreach efforts include a partnership with interpreters to develop resources for best practices in facilitating effective communication between deaf consumers, hearing consumers, and interpreters. Having RID representation on the new advisory committee will facilitate dialogue between and input from the interpreters working in VRS call centers. By involving RID in the new advisory committee, we can help inform the direction of the council on projects like the national outreach pilot.

V. FURTHER DIALOGUE IS NECESSARY PRIOR TO DISAGGREGATING EMERGENCY CALLS TO 9-1-1

A. Achieving Functional Equivalency in Interpreting for Emergency Calls to 9-1-1

RID recognizes the establishment of separate 9-1-1 relay centers that are co-housed with current 9-1-1 call centers (Media Communications Line Service or MCLS) as one means to achieve functionally equivalent emergency calls to 9-1-1. MCLS offers a solution whereby interpreters can self-determine acceptance of 911 calls, specialize in 911 calling, and provide excellence in interpreting in 911 calling situations.

Regardless of whether 9-1-1 calls are disaggregated, interpreters who handle emergency calls should be required to take additional training to prepare them for taking emergency calls. This training should be similar to the training 9-1-1 dispatchers receive and should include:

⁸ *FNPRM* at ¶ 78

- Crisis intervention and response
- Specialized vocabulary
- Stress management

B. The Commission Should Not Integrate the EAAC’s Proposals without First Seeking Further Input from Sign Language Interpreters

Neither a RID representative nor an interpreter was a stakeholder in the development of the above referenced EAAC drafting. As a result, the EAAC’s report, particularly *Working Subgroup Three recommendations on current 9-1-1 and next generation 9-1-1: Media Communication Line Services Used to Ensure Effective Communication with Callers with Disabilities*⁹, contains inaccuracies and lacks essential information about the work and capabilities of interpreters. For example:

1. The Working Subgroup 3 recommends that to work in an MCLS, a sign language interpreter (SLI) “must possess National Interpreter Certification (Master, Advanced), Certificate of Interpretation (CI), and/or Certified Deaf Interpreter (CDI) from Registry of Interpreters for the Deaf or certification from state agencies.”¹⁰ With the exception of the CDI certification, the NAD-RID certifications listed above are no longer available. This leaves CDIs and those who reside in states that have certification in the pool of eligible, qualified SLIs.
2. There is a strong suggestion that the only interpreters who should work in an MCLS should not only be certified but also “should be qualified to provide functional equivalency for communication through, but not limited to, oral

⁹ See *Emergency Access Advisory Committee Working Group 3 Recommendations on Current 9-1-1 and Next Generation 9-1-1: Media Communication Line Services Used to Ensure Effective Communication with Callers with Disabilities*, at 14 (March 1, 2013), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-319394A1.pdf.

¹⁰ *Id* at 16.

interpreting, written captions, or any combination.”¹¹ In essence, the document suggests creating a group of "super-interpreters" that is able to provide a multitude of competent, functionally equivalent communication services in addition to their roles as a sign language interpreter. RID does not believe that this is reasonable or appropriate. When Working Subgroup 3 adds these additional duties and roles outside the scope of professional sign language interpreting, the effect is that it shrinks the pool of qualified interpreters. Essentially, these recommendations exacerbate the very problem they aim to solve – the lack of qualified interpreters to interpret in the MCLS call center for emergency calls.

3. Working Subgroup 3 concedes that the well-being of SLIs and CAs processing 9-1-1 calls is an area of concern¹², but does little in the way of explaining the impact trauma has on an SLI’s mental health and/or job performance. The psychological and emotional trauma induced by processing emotionally charged calls, which may include witnessing violence, suicide or even the death of a Deaf individual, continues to place the well-being of sign language interpreters at risk. Video Interpreters working in the United States and Canada have shared with the FCC, VRS providers, and members of the Deaf community the ongoing psychological trauma they are experiencing as a result of processing emergency calls. This issue is almost entirely disregarded in the recommendations of Working Subgroup 3.

Prior to adopting the recommendations of the EAAC, the Commission should first engage interpreters in dialogue about 9-1-1 emergency calls through VRS. Furthermore RID requests that such documents now and in the future separate expectations, qualifications, and

¹¹ *Id* at 18.

¹² *Id* at 22.

training goals for SLIs (Sign Language Interpreters). The Commission must understand that the telecommunications expectations previously set for TTY operators (CAs) cannot continue as a one-size-fits-all for the VRS industry. TRS is not a monolithic service and treating the diverse providers of TRS as such does a disservice to consumers and subverts the charge of functional equivalency. RID and the Commission must partner to develop an alternative model in providing relay service via a sign language interpreter to ensure that functional equivalency is achieved.

VI. SPEED OF ANSWER REQUIREMENTS SHOULD BE ACCOMPANIED BY MEASURABLE STANDARDS SUPPORTING FUNCTIONAL EQUIVALENCY

RID understands why consumer groups continue to advocate for a lower Average Speed of Answer (ASA) and recognize that lowering the ASA will more fully realize the goal of functional equivalency in VRS. However, RID is concerned about the impact a lower ASA will have on interpreters' ability to provide functionally equivalent interpreting services, including the ability to interpret the call effectively, the availability of a qualified pool of interpreters, and the degradation of the consumer experience without the necessary protections established via standards. Recent research conducted by Kathryn Bower as a part of her Master's thesis project at Gallaudet University found that one of the top five stressors that lead to burnout for video relay interpreters is the rate at which calls come in.¹³ While the *FNPRM* asked whether additional costs will be incurred to implement the ASA changes, we are concerned that some VRS providers may attempt to meet ASA requirements without hiring additional interpreters. As a result, interpreters currently working in VRS may bear the brunt of the change by being pressured to process calls to the point of fatigue, stress, and serious injury. RID requests that if

¹³ Bower, K. (2013, May). *Stress and burnout in video relay service (VRS) interpreting*. Presentation given at the Annual Student Research Forum, Gallaudet University. Washington, DC.

the proposed ASA standards are adopted that the Commission also set measurable standards, which may include staffing levels, to prevent degradation in a functionally equivalent VRS. Furthermore, there is a dearth of research investigating how ASA impacts the ability of a VRS interpreter to provide effective communication and thus functionally equivalent VRS. The commission should allocate a portion of the proposed research and development budget to addressing this important issue, including collecting information and evaluating ASA. This research should include evaluating how quickly the technology being used connects the call versus how quickly an interpreter connects to the caller. Information should also be collected when there is no answer/no interpreter available. This information can help determine where delays in ASA are happening and what standards need to be implemented to ensure functional equivalence.

VII. REMAIN COGNIZANT OF THE IMPACT VRS HAS ON THE AVAILABILITY OF COMMUNITY INTERPRETERS

The Commission has an obligation to ensure adequate supply for its services by investing in the development of professional interpreters. Meanwhile, the Commission should remain cognizant of the impact VRS has on the availability of community interpreters. According to the Interpreting Practitioner Needs Assessment 2012: Final Report published by the National Consortium of Interpreter Education Centers (NCIEC), 53% of interpreters who responded to the survey reported an increase in the demand for their services.¹⁴ The U.S. Department of Labor predicts that “employment of interpreters and translators is expected to grow 42 percent from 2010 to 2020, much faster than the average for all occupations,” and continues, “Demand for

¹⁴ National Consortium of Interpreter Education Centers, *Interpreting Practitioner Needs Assessment 2012: Final Report*, on the Internet at http://www.interpretereducation.org/wp-content/uploads/2013/01/2012-Practitioner-FINAL-Report_Published_011713.pdf (visited August 19, 2013)

American Sign Language interpreters is expected to grow rapidly, driven by the increasing use of video relay services, which allow people to conduct online video calls and use a sign language interpreter.”¹⁵

VIII. NON-COMPETITION AGREEMENTS IN VRS INTERPRETER EMPLOYMENT CONTRACTS ARE UNREASONABLE AND UNDERMINE FUNCTIONAL EQUIVALENCE

RID opposes the use of non-competition agreements in VRS interpreter contracts. RID believes that such non-competes, which are typically used to protect trade secrets, are unreasonable and undermine functional equivalence by limiting the pool of qualified interpreters available to work in the VRS industry.

Interpreters working in VRS are privy to minimal, if any, trade secrets about their employer. The arguments for the non-competes in VRS interpreter employment contracts underscore this fact by contending “[Non-competes] encourage Sorenson to invest in training new VRS CAs, knowing that competitors will not hire away Sorenson's newly-trained CAs.”¹⁶ The desire to retain recently trained employees is insufficient to justify a restrictive and overly broad non-compete clause. Applying this principle, any company that provides on the job training could bar their employee from working in a particular industry, thereby creating a workforce shortage. This is particularly dangerous in the VRS industry in light of the U.S. Department of Labor prediction that the “demand for American Sign Language interpreters is expected to grow rapidly, driven by the increasing use of video relay services, which allow

¹⁵ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, 2012-13 Edition*, Interpreters and Translators, on the Internet at <http://www.bls.gov/ooh/media-and-communication/interpreters-and-translators.htm#tab-6> (visited August 19, 2013).

¹⁶ *FNPRM* at ¶78

people to conduct online video calls and use a sign language interpreter.”¹⁷ If the intent of the non-compete clauses is to protect legitimate trade secrets and not training investments, then that goal can be met by agreements less restrictive than overly broad non-competition clauses that act as a nationwide bar on interpreting in VRS and other settings for a year.

Non-competition agreements in VRS undermine functional equivalence by limiting the pool of qualified interpreters available to work in VRS. There are a finite number of interpreters qualified to work as VRS interpreters so any restriction on when and where these individuals work creates an artificial decrease in the supply of VRS interpreters. As a result, under qualified or unqualified interpreters may be hired by VRS providers.

AVRS interpreter who has decided to discontinue employment with a VRS provider based on adverse working conditions or relocation would be unreasonably barred from working in their field for up to a year, thus shrinking the pool of qualified interpreters available to work in VRS or other settings as restricted by the non-compete. Forcing an interpreter to stay in adverse working conditions because of an overly restrictive non-competition agreement undermines functional equivalence because unhappy workers are generally less productive.¹⁸ If interpreters are not able to perform at their best, the consumer experience is degraded and functional equivalence is not achieved.

RID opposes noncompetition agreements in VRS interpreter employment contracts and believes that they undermine functional equivalence. However, if the Commission decides to allow non-competition agreements, then these agreements should be limited based on:

¹⁷ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook, 2012-13 Edition*, Interpreters and Translators, on the Internet at <http://www.bls.gov/ooh/media-and-communication/interpreters-and-translators.htm> (visited *March 15, 2013*).

¹⁸ Oswald, Andrew J., Proto, Eugenio and Sgroi, Daniel, Happiness and Productivity. IZA Discussion Paper No. 4645. Available at SSRN: <http://ssrn.com/abstract=1526075>

- the geographic scope of the non-compete,
- the duration of the non-compete, and
- the type of activity the ex-employee is precluded from engaging in.

The scope of non-competition agreements must be limited to prevent a shortage in available interpreters and to protect the interests of the interpreters. The Commission should limit the geographic scope of the non-compete clause so that if an interpreter moves to an area where their current employer does not have a VRS call center, they are able to continue working without threat of reprisal. This is particularly important in light of the Commission's decision to prohibit VRS interpreters from handling calls from home. The Commission should also limit the duration of the non-compete clause so that the available supply of interpreters keeps pace with the increased demand for VRS interpreters. Finally, the Commission should limit the type of activity the ex-employee is precluded from engaging in, for example: does the non compete address only VRS or are there clauses that would limit or restrict video remote interpreting (VRI) or community interpreting?

Recent research conducted by Kathryn Bower as a part of her Master's thesis project at Gallaudet University recommends a balance between VRS and community interpreting in order to lessen the stress and resulting burnout interpreters in video relay experience.¹⁹ The Commission should not force interpreters into a model in which the VRS provider maintains sole control over the settings within which interpreters are able to work. Instead, the Commission should reject non-competition agreements in VRS interpreter contracts so that functional equivalence is achieved.

¹⁹ Bower, K. (2013, May). Stress and burnout in video relay service (VRS) interpreting. Presentation given at the Annual Student Research Forum, Gallaudet University. Washington, DC.

IX. VRS INTERPRETERS SHOULD BE ALLOWED TO WORK FROM PERSONAL OFFICES (OFF-SITE)

A growing number of interpreters have invested in personal offices that meet requirements set forth formerly by video relay service (VRS) and currently by video remote interpreting (VRI) providers. Guidelines for effective use of personal offices have proven successful for many sign language interpreters providing video remote services. The ability to work from remote locations has been helpful in addressing the need for more qualified interpreters by allowing interpreters who live in rural communities, or who do not wish to work in corporate call centers, to connect to the national VRS system. RID believes that requiring providers to follow established protocols for remote offices would help to safeguard the service and limit fraudulent activities.

RID continues to receive feedback from qualified interpreters who are willing to work as video interpreters from personal offices. Reasons range from limited work opportunities in rural areas to disabilities preventing the interpreter from travelling to a call center to a dearth of public transportation options. Many of these concerns are exacerbated by the need to travel during overnight hours. RID supports an interpreter's ability to work from personal offices to provide video interpreting; however, guidelines and safeguards must be put in place to protect the health and safety of the interpreter, the experience of the consumer, and the integrity of VRS. RID recommends expectations of interpreters who work from personal offices to include access to appropriate teaming, debriefing, case conferencing, and methods to ensure ethical standards, like those expected of RID members through the NAD-RID Code of Professional Conduct (CPC).

X. CONCLUSION

RID respectfully requests that the Commission consider the points discussed herein and in their initial Comments when considering ways to improve the structure and efficiency of the VRS program.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Shane Feldman", is written in a cursive style.

Shane H. Feldman
Executive Director

Dated: August 19, 2013